



Office of the  
Deputy Prime Minister

Creating sustainable communities

Phillip Brown Associates  
74 Park Road  
Rugby  
Warwickshire  
CV21 2QX

Mr D Kendrick  
Gypsy Welfare Committee  
61 Blenheim Crescent  
London W11 2EG

Andrew Lynch  
Decision Officer  
Zone 3/J2  
Eland House  
Bressenden Place  
London  
SW1E 5DU

Direct Line: 0207 944 8722  
Fax: 0207 944 5929  
Email: Andrew.Lynch@odpm.gsi.gov.uk  
Web Site: www.odpm.gov.uk

Our Ref: APP/V1505/C/04/1153319 and  
others

15 December 2005

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTIONS 78 AND 174**

**THE DEVELOPMENT PROPOSED IS THE CHANGE OF USE OF THE LAND FOR THE  
SITING OF GYPSY CARAVANS INCLUDING THE CREATION OF HARDSTANDINGS**

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, DE Morden MRTPI, who held a public inquiry on 10-13 May, 16 May, 9 June and 7-8 July 2005 into:

**A. Your clients' appeals**

- APP/V1505/C/04/1153319 made by Mrs Margaret O'Brien. The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the 1990 Act.
- APP/V1505/C/04/1153320 made by Mrs Margaret O'Brien. The appeal is proceeding on the grounds set out in section 174(2)(g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and deemed application for planning permission do not fall to be considered.
- APP/V1505/C/04/1153789 made by Mr John McCarthy. The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (g) of the 1990 Act.
- APP/V1505/C/05/2000733 made by N Sheridan. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and deemed application for planning permission do not fall to be considered.
- APP/V1505/C/05/2001205 made by K Sheridan. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and deemed application for planning permission do not fall to be considered.
- APP/V1505/C/04/1153831 made by Ms Mary Gammell. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and deemed application for planning permission do not fall to be considered.

- APP/V1505/C/04/1153969 made by Mrs Jean Gammell. The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the 1990 Act.
- APP/V1505/C/04/1154095 made by Mrs Kathleen O'Brien. The appeal is proceeding on the grounds set out in section 174(2)(g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and the deemed application for planning permission do not fall to be considered.
- APP/V1505/C/05/2000731 made by Bridget Gammell. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the deemed application for planning permission do not fall to be considered.
- APP/V1505/C/05/2000732 made by N Sheridan. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and deemed application for planning permission do not fall to be considered.
- APP/V1505/C/05/2001204 made by K Sheridan. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and deemed application for planning permission do not fall to be considered.
- APP/V1505/C/05/2000852 made by Ms Helen Quilligan. The appeal is proceeding on the grounds set out in section 174(2)(g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and the deemed application for planning permission do not fall to be considered.
- APP/V1505/C/05/2000854 made by Ellen Quilligan. The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the ground (a) appeal and the deemed application for planning permission do not fall to be considered.

under section 174 of the Town and Country Planning Act 1990 ("the Act") against enforcement notices issued by Basildon District Council. The breaches of planning control as alleged in the notices, and the periods for compliance are as set out in Appendix A of the Inspector's report.

#### B. Your clients' appeals

- APP/V1505/A/04/1162714 made by Ms Helen Quilligan,
- APP/V1505/A/04/1167215 made by Ms Mary Flynn,
- APP/V1505/A/04/1167217 made by Ms Margaret Flynn

under section 78 of the Act against a refusal by Basildon District Council to grant planning permission for the change of use of the land for the siting of gypsy caravan including the creation of a hard standing, in accordance with applications Ref 04/00806/FULL and 04/00807/FULL, dated 20 June 2004.

2. The Inspector, whose conclusions are reproduced as an annex to this letter, recommended that:

With respect to the section 174 appeals, that the enforcement notice be varied by the substitution of 18 months for all steps other than in the cases of appeals APP/V1505/C/04/1153319 and APP/V1505/C/04/1153831, where he recommends that the 3 day periods for compliance with step (i) of each notice should stand. On this basis, that the appeals be dismissed and the enforcement notices be upheld.

With respect to the section 78 appeals, that they be dismissed.

3. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and with his recommendation that the appeals be dismissed, and the enforcement notices upheld. However, he disagrees with the Inspector's recommendation that the original compliance periods be extended to 18 months, and instead has extended them to 12 months. All paragraph references in this letter are to the Inspector's report (IR) unless otherwise stated.

#### **Procedural Matters**

4. The Secretary of State has had regard to the unfortunate deaths of Mr J and Mrs K McCarthy, the occupiers of Plot 3, during the inquiry. He agrees with the Inspector that the circumstances are relevant to Appeal Q only, and that this appeal should be treated as being in abeyance until the legal situation has been finalised. Once this has been done, the appellants' agent should contact this office. He agrees with the Inspector for the reasons given in IR 9 that Appeal C, relating to Plot 2 owned by Ann Sheridan, can continue as if it had been made by her.

5. A number of appeals were made under ground (e) of section 174. The Secretary of State agrees with the Inspector, for the reasons given at IR 144 -150, that these appeals should be dismissed.

#### **Policy Consideration**

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise.
7. In this case, the development plan consists of the Essex and Southend on Sea Replacement Structure Plan, adopted in April 2001, and the Basildon District Local Plan, adopted in March 1998. It also includes the Regional Spatial Strategy for the South East (RSS9), published in March 2001. The Secretary of State has noted that the Examination in Public Inquiry into the draft Regional Spatial Strategy for the East of England, under which the application site now falls, started in November 2005.
8. The Secretary of State notes that the Basildon District Local Plan is currently under review and that the redeposit Replacement Local Plan was publicly consulted upon between 18 July and 30 August 2005. As this plan has not yet been subject to inquiry, the Secretary of State affords it limited weight. In any event, he considers that the current version of proposed policy BAS H5 is substantially the same as that which was before the inquiry.